

May 18, 2004

John Zegeer
Kittelson & Associates
110 E. Broward Boulevard
Suite 2410
Fort Lauderdale, FL 33301

RE: REQUEST FOR ADVISORY OPINION 04-91

Dear Mr. Zegeer:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on May 17, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts of interest related to serving as Program Management Consultant for the People's Transportation Plan.

Miami-Dade County recently issued a Notice to Professional Consultants for a Program Management Consultant for the People's Transportation Plan. The Program Management Consultant (PMC) will hold a non-exclusive seven-year contract with Miami-Dade County to manage, with the support and supervision of Transit and Public Works staff, the various phases of implementing the People's Transportation Plan. Specifically, the Scope of Services requires the PMC to be responsible for short and long-range transit planning, facilities planning, feasibility studies, oversight of construction, engineering and inspection consultants and

design criteria and standards. Transit will hire additional firms to do the actual design and construction inspection work but they will work under the direction of the Program Management Consultant team. As noted in the NTPC and our review of this matter, it is the intention of the County that the Program Management Consultant act as County staff in the areas for which the Consultant will provide staff and technical assistance. The contract should be awarded in the summer of 2004.

The People's Transportation Plan consists of several projects including highway and road improvements, bus service improvements and neighborhood improvements. The heart of the project is several rapid transit improvements including:

- Ø The North Corridor- The North Corridor will run from the Dr. Martin Luther King Jr. Metrorail Station (N.W. 27th Avenue and 62nd Street) along N.W. 27th Avenue to 215th Street.
- Ø The East West-Corridor- The East-West Corridor consists of two segments from the Florida Turnpike east to the Palmetto Expressway and from the Palmetto through Miami International Airport and Downtown Miami and to the Port of Miami-Dade
- Ø Baylink- A corridor between downtown Miami and Miami Beach
- Ø Kendall Corridor- A corridor with east-west and north-south elements

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has

delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County. The analysis of potential conflicts, in this case, is generally limited to the requestor's contracts with Miami-Dade Transit and does not analyze potential conflicts with contracts with other agencies.

In your request, you informed the Ethics Commission that Kittelson and Associates is currently providing services to the Florida Department of Transportation on two contracts. Kittelson is currently the prime consultant on a District-wide Traffic Operations Study. The scope of services includes the performance of various studies, analyses, qualitative and quantitative assessments and development of traffic engineering recommendations for roadway and intersection traffic operations on the state responsible roadways in Miami-Dade and Monroe counties. The contract has an expiration date of July 1, 2004 with an option to renew.

Kittelson is also the prime consultant on a Systems Planning Consultant Services contract. The scope of services includes long-range transportation model development and may include modeling or model review activities related to local government comprehensive plans and/or development of regional impact. The contract has an expiration date of December 31, 2004.

The Ethics Commission found that Kittelson and Associates may serve as Program Management Consultant for the People's Transportation Plan. However, if Kittelson is awarded the contract, Kittelson may not undertake any work related to this project for any other agency while simultaneously performing management responsibilities for Miami-Dade County. Transit or another team member must assume management

responsibilities where an overlap between responsibilities may occur.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director

cc: Pamela Paulk, CICC